

GAHC010194282023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5204/2023

MEHBUB HUSSAIN
S/O- LATE SHAHIDUR RAHMAN,
VILL- JHAGRARPAT PT.-III,
P.O.- JHAGRARPAT,
P.S. AND DIST.- DHUBRI, ASSAM,
PIN- 783325.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
INDUSTRIES AND COMMERCE DEPARTMENT,
DISPUR, GHY-06.

2:THE COMMISSIONER OF INDUSTRIES AND COMMERCE
ASSAM
UDYOG BHAWAN
BAMUNIMADAM

GHY-21.

3:THE STATE LEVEL COMMITTEE (SLC)
REPRESENTED BY THE CHIEF SECY. TO THE GOVT. OF ASSAM

DISPUR
GHY-6.

4:THE DISTRICT LEVEL COMMITTEE (DLC)
DHUBRI
REPRESENTED BY THE DEPUTY COMMISSIONER
DHUBRI

P.S. AND DIST.- DHUBRI
ASSAM

PIN- 783301.

5:THE INSPECTOR OF SCHOOLS
DHUBRI DISTRICT CIRCLE
DHUBRI
DISTRICT- DHUBRI
ASSAM

PIN- 783301.

6:THE GENERAL MANAGER
DISTRICT INDUSTRIES AND COMMERCE CENTRE
DHUBRI
GAURIPUR
DIST.- DHUBRI
ASSAM

PIN- 783331

Advocate for the Petitioner : MD A HUSSAIN

Advocate for the Respondent : SC, INDUSTRIES

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

Date : 20-09-2023

JUDGMENT & ORDER (ORAL)

Heard Mr. A Hussain, learned counsel for the petitioner. Also heard Mr. SMT Chistie, learned counsel for the Secondary Education Department, Government of Assam, Mr. G Pegu, learned Additional Senior Government Advocate for the Deputy Commissioner, Dhubri and Mr. A Kalita, learned counsel for the respondents in the Industries & Commerce Department, Government of

Assam.

2. It is noticed that this writ petition is instituted by raising the grievance that the recommendation made in favour of the petitioner had not been placed before the SLC as required under the law. We have perused the recommendation of the DLC dated 22.09.2021, wherein the DLC upon arriving at its conclusion that no vacancies are available in the office of the Inspector of Schools, DDC Dhubri had recommended the petitioner against an available Grade IV post in the office of the General Manager, DICC, Gauripur. The law in this respect is provided under Clause 15 of the OM dated 01.06.2015 which is extracted as below:

15) If sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open in the Administrative Department Office to take up the matter with other Department/Offices of the Government to provide at an early appointment on compassionate grounds to those in the waiting list.

3. The procedural requirement is that in the event a vacancy is not available in the Department where the deceased had worked, the Department concerned may explore the possibilities of there being vacancies in any other administrative department within the district and accordingly communicate with such other administrative departments. Upon undertaking such procedure, if any of the other departments are agreeing that they have a vacant post for compassionate appointment and the person can be accommodated in such department, it is

only thereafter the DLC can make a recommendation against a vacant post in any other department. A reading of the minutes of DLC dated 22.09.2021 makes it discernible that such procedure was not duly followed by the DLC. As the petitioner seeks for a direction to place the recommendation of the DLC before the SLC and it is noticed that the DLC had not followed the proper procedure, we are of the view that it would be inappropriate to issue a direction for placing the recommendation of the DLC made in favour of the petitioner before the SLC.

4. In view of the above, the matter stands remanded back to the DLC of Dhubri district for a fresh consideration of the application of the petitioner as per law and to follow the procedure provided under Clause 15 of the OM dated 01.06.2015 and upon following the procedure of communicating with the other administrative departments, if any of the administrative departments in the concerned district are agreeable that a vacant post exists to accommodate the petitioner, appropriate resolutions may be passed. Accordingly, the claim of the petitioner be placed before the next available DLC of Dhubri district.

5. The writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant